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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)

Implementation of the)
Pay Telephone Reclassification)
and Compensation Provisions of the)
Telecommunications Act of 1996)

CC Docket No. 96-128

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REPLY COMMENTS OF PUERTO RICO TELEPHONE COMPANY

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SUMMARY

These Reply Comments of Puerto Rico Telephone Company address the following sections of the NPRM: Section III.F., "Establishment of Public Interest Payphones"; Section III.D, "Ability of BOCs to Negotiate with Location Providers on the Presubscribed InterLATA Carrier"; and Section III.A.2.c., "Ability of Carriers to Track Calls from Payphones."

The vast majority of commenters agree with PRTC that the establishment of a mechanism for maintaining and funding public interest payphones is necessary to protect the public health safety and welfare. Such a mechanism is crucial in Puerto Rico where half of all families live below the poverty level and where telephone service penetration is far below the national average. Many residents of Puerto Rico rely on payphones as a substitute for local telephone service.

Without the cost recovery methods previously available for such payphones, an alternative funding mechanism is necessary to ensure their continued existence. If the Commission determines, as it should, that public interest payphones should be maintained, then Section 276 requires the Commission to ensure that such payphones are funded.

The Commission should reject the suggestions of AT&T and the PaPUC to withdraw from all payphone service providers the right

to negotiate with location providers concerning the selection of the presubscribed carrier. Section 276 requires that PSPs have that right, and, except with respect to BOCs, does not give the Commission discretion to withdraw it.

PRTC opposes the suggestion made by some parties that LECs be required to undertake tracking and billing responsibilities for all access code and toll-free calls made from all payphones within their local exchange service area. First, like other LECs, PRTC cannot accurately track completed calls from its payphones. Second, there is no justification for thrusting LECs into the middle of billing arrangements (and the inevitable disputes) between operator service providers and PSPs.

EXHIBIT A

Map: Percentage of Households With a Telephone
By Exchange in Puerto Rico (December 1995)

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REPLY COMMENTS

Puerto Rico Telephone Company ("PRTC"), by its attorneys and pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415, submits these Reply Comments in response to the captioned Notice of Proposed Rulemaking ("NPRM") adopted and released on June 6, 1996.

I. THE ESTABLISHMENT OF PUBLIC INTEREST PAYPHONES IS NECESSARY TO PROTECT THE PUBLIC HEALTH, SAFETY AND WELFARE (NPRM § III.F)

PRTC's comments showed that the establishment of a mechanism for maintaining and funding public interest payphones is crucial to protect the health, safety and welfare of those members of the public that rely upon payphones as their only means of access to the telecommunications network. The vast majority of commenters agreed. For example, the New Jersey Ratepayer Advocate explains, "Public interest payphones provide services to individuals in poor and isolated communities who might otherwise not have any access to the exchange network."¹ And the Public Utilities Commission of Ohio states that public interest payphones should be maintained because they are used by some residents as a

1. Comments of the New Jersey Division of the Ratepayer Advocate at 3.

substitute for local telephone service, and that low income neighborhoods and rural areas are of particular concern.

Comments of PUCO at 15. See also Comments of the New York City Department of Information Technology and Telecommunications ("NYCDITT") at 3; Comments of the Idaho Public Utilities Commission at 1; Comments of the National Telephone Cooperative Association ("NTCA") at 6-7.

The California Payphone Association ("CPA") "strongly supports" the proposal to maintain public interest payphones in places where they are necessary, but asserts that those places are few and far between.² The Iowa Utilities Board argues that the FCC should defer to the states on the issue because Iowa has found that it is "not necessary to establish rules requiring public interest payphones" in Iowa.³

CPA and Iowa are in the minority in their view that public interest payphones are mostly unnecessary. Regardless what the situation may be in California or Iowa, their findings do not describe the situation in Puerto Rico. As shown in PRTC's comments, more than half of the families in Puerto Rico live below the poverty level, and telephone service penetration on the island is far below the U.S. average. Exhibit A shows that, while the percentage of households with a telephone is relatively

2. Comments of CPA at 21-22.

3. Initial Comments of the Iowa Utilities Board at 4.

high in portions of the San Juan metropolitan area (although still below the U.S. average), the penetration level is extremely low in most of the rest of the island -- as low as 45% in the Aguirre exchange. This is due to a combination of low average household income and the mountainous and rural characteristics of much of the island. There are many payphones throughout these portions of the island that do not recover their costs, but that are the only means of access to the telecommunications network for many people.

The RBOC Payphone Coalition maintains that "there is little need for the FCC to intervene in the public interest payphone market" because "local government agencies already provide for public interest payphones by making them a part of their contacts with individual payphone service providers."⁴ While California apparently has a special fund to which all payphone service providers ("PSPs") contribute in order to support public interest payphones, such special funding provisions are not in place everywhere. Until now, most states have provided for these payphones through cost recovery methods that may no longer be permitted under Section 276. As NTCA explains, "Without the cost recovery previously available, the required provision of payphones in these competitively undesirable areas appears to produce the need for an alternative cost recovery system." NCTA

4. Comments of the RBOC Payphone Coalition at 46.

at 6-7. See also Comments of Southwestern Bell Telephone Company at 8 ("since no subsidies will exist any longer to support noneconomical payphones, the FCC must establish rules that provide for fair compensation to PSPs for providing such payphones"); Comments of NYCDITT at 3 ("In the absence of incentives, providers are unlikely to erect payphones in indispensable locations such as underserved residential neighborhoods and areas with significant emergency demands.").

PRTC agrees with the New Jersey Ratepayer Advocate that "public interest payphones are an integral part of the concept of universal service," and, therefore, the Commission "should order that they be maintained."⁵ If the Commission does determine that public interest payphones should be maintained, then Section 276 requires the FCC to "ensure that such public interest payphones are supported fairly and equitably." While it may be better policy for the Commission to allow the states to determine which payphones should be public interest payphones, the Commission does not have the option of allowing the states to determine whether to fund such payphones. Section 276 requires the Commission to ensure that public interest payphones are funded. PRTC supports the recommendation of NTCA that the FCC could establish a fund segregated from other universal service support

5. Comments of the New Jersey Division of the Ratepayer Advocate at 3.

mechanisms, and administered by NECA, to ensure the support of public interest payphones. See NTCA at 7.

II. THE COMMISSION SHOULD NOT WITHDRAW FROM PAYPHONE PROVIDERS THE RIGHT TO NEGOTIATE WITH LOCATION PROVIDERS CONCERNING THE SELECTION OF THE PRESUBSCRIBED CARRIER (NPRM § III.D.)

Section 276(b)(1)(D) requires the Commission to provide for BOC payphone service providers to have the same right that independent payphone providers have to negotiate with the location provider on the selection of the presubscribed interLATA carriers, unless the Commission finds that it would not be in the public interest to do so. Section 276(d)(1)(E) further provides that all payphone service providers have the right to negotiate with the location provider on the selection of the presubscribed intraLATA carrier.

AT&T and the Pennsylvania Public Utility Commission ("PaPUC") argue that BOCs should not be permitted to negotiate with location providers concerning the selection of presubscribed carriers. Both parties then argue that, rather than extending such rights to the BOCs, the Commission should create parity by withdrawing the rights that non-BOC payphone providers have to negotiate with location providers.⁶

The language of Section 276 explicitly proscribes the action requested by AT&T and the PaPUC. Section 276(b)(1)(E) requires that all PSPs have the right to negotiate with the location

6. Comments of the PaPUC at 7-8; AT&T Comments at 25 & n.48.

provider concerning presubscription of the intraLATA carrier. That section assumes that all PSPs except BOCs already have such rights with respect to the interLATA carrier. There is nothing in Section 276 that would indicate that the Commission has the discretion to withdraw those rights.

III. LECs SHOULD NOT BE RESPONSIBLE FOR TRACKING AND BILLING FOR ALL COMPENSABLE CALLS FROM PAYPHONES (NPRM § III.A.2.c.)

Under the Commission's "carrier-pays" proposal for per-call compensation of PSPs, there must be an entity responsible for tracking compensable calls. The Commission proposes that "all IXCs that carry access code calls and toll-free calls originated from payphones, including the intrastate interexchange operations of LECs, would be required to track payphone calls." NPRM ¶ 31.

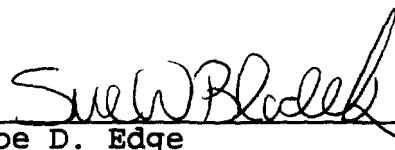
Some parties, however, are proposing that LECs be responsible for tracking all access code and toll-free calls (i.e., not only those compensable calls for which they are the carrier), and that LECs be responsible for billing the appropriate IXCs for those calls and remitting compensation to the PSPs.⁷

PRTC opposes any arrangement that would require PRTC to undertake tracking and billing responsibilities for all access code and toll-free calls made from all payphones within PRTC's

7. See, e.g., Comments of Worldcom, Inc. at 14-15; Comments of Cable & Wireless at 11-12; Comments of the California Association of Long Distance Telephone Companies at 4-5.

local exchange service area. First, as Sprint points out, no LEC can today accurately track completed calls from its payphones.⁸ Moreover, the LECs should not be required to assume a fiduciary responsibility with respect to the business relationship between operator service providers and PSPs. While both the OSP and the PSP receive benefit from having a customer place a compensable call from a non-LEC-owned payphone, the LEC receives no benefit. LECs should not be required to take on a role that will thrust them involuntarily into billing disputes between the OSPs and PSPs. If the Commission adopts a "carrier-pays" compensation method, it should also adopt its proposal to require the IXC's to be responsible for tracking the calls and remitting payment to the PSPs.

Respectfully submitted,


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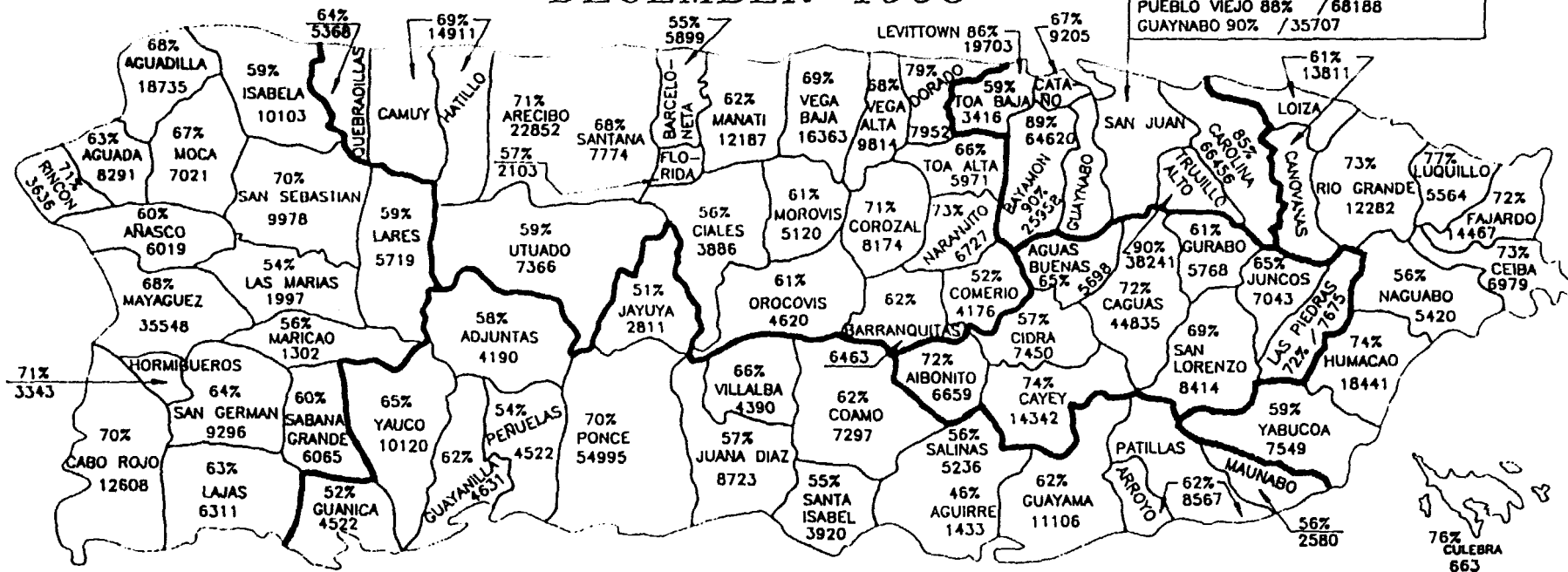
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8. Comments of Sprint Corporation at 14 n.9.

EXHIBIT A

Map: Percentage of Households With a Telephone
By Exchange in Puerto Rico (December 1995)

PERCENTAGE OF HOUSEHOLDS WITH A TELEPHONE BY EXCHANGE AS OF DECEMBER 1995



Certificate of Service

I hereby certify that a copy of the foregoing was sent by U.S. First Class mail postage prepaid, this 15th day of July, 1996 to the below-listed parties:

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